UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,185	11/24/1999	LARRY G. MICHALEWICZ	062891.0342	5978

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EXAMINER
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ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/449,185	MICHALEWICZ ET AL.
		Examiner	Art Unit
		Brian D Nguyen	2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2004*.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16,18-49 and 51-59* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-6,10-16,18-24,26-30,32-39,43-49 and 51-59* is/are rejected.
7)☒ Claim(s) *7-9,25,31 and 40-42* is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
          application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action: .

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 1-2, 10-16, 18-24, 26-30, 32-35, 43-49, 51-59 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Caves (6,266,343) in view of Turner et al (6,438,137).

Regarding claims 1-2, Caves discloses a method for enabling communication between a

plurality of telephone devices comprising receiving incoming media packets from each telephone

device (user1 and user2 of figure 2); dividing payload section into data segments; mixing the

data segments from two or more telephone devices (user1 and user2) to create an data segment;

and constructing an outgoing payload portion for one or more of the telephone devices (see

figure 2 where variable length packets from users 1 and 2 are combined to form a CPS-PDU; see

col. 2, lines 41-49; col. 3, lines 3-49; col. 4, lines 13-31). Caves does not explicitly discloses that

the combined packets of user1 and user2 formed at the IWF is an aggregate data packets.

However, it is well known that a packet formed by combining packets from a plurality of users at

an IWF is a aggregate packet. Turner uses the term aggregate to describe the combined packet.

Regarding claims 10-14, Caves discloses dividing a payload section into a complete

segment, full segments of equal size, and a remainder segment; and constructing outgoing

payload sections by linking the remainder segment, full segments, and a portion of another

segment (see figures 2 & 4 and col. 4, lines 13-31 where data packets from user 1 and user 2 are

segmented and outgoing payload sections are constructed).

Regarding claims 15-16, 18-21, claim 15-16, 18-21 are method claims that have

substantially all the limitations of method claims 1-2, 10-14. Therefore, they are subject to the

same rejection.

Regarding claims 22, claim 22 is apparatus claims that have substantially all the

limitation of the respective method claim 1. Therefore, they are subject to the same rejection.

Regarding claims 23-24, Caves in view of Turner do not specifically disclose the use of

G.711. However, to use encoder G.711 or any other standards is a mater of choice in order to

meet specific needs.

Regarding claims 26-27, claims 26-27 are apparatus claims that have substantially all the

limitation of the respective method claims 10-12. Therefore, they are subject to the same

rejection.

Regarding claim 28, claim 28 is network claims that have substantially all the limitation

of the respective apparatus claim 22. Therefore, they are subject to the same rejection.

Regarding claims 29-30, claims 29-30 is a network claim that has substantially all the

limitation of the respective apparatus claims 23-24. Therefore, it is subject to the same rejection.

Regarding claims 32-33, claims 32-33 are network claims that have substantially all the

limitation of the respective apparatus claims 26-27. Therefore, they are subject to the same

rejection.

Regarding claims 34-35, claims 34-35 are computer claims that have substantially all the

limitation of the respective method claims 1-3. Therefore, they are subject to the same rejection.

Regarding claims 43-47, claims 43-47 are computer claims that have substantially all the limitation of the respective method claims 10-14. Therefore, they are subject to the same rejection.

Regarding claims 48-49, 51-54, claims 48-49, 51-54 are computer claims that have substantially all the limitations of the respective method claims 15-16, 18-21. Therefore, they are subject to the same rejection.

Regarding claim 55, claim 55 is apparatus claims that have substantially all the limitation of the respective apparatus claim 22. Therefore, they are subject to the same rejection.

Regarding claims 56-57, claims 56-57 is an apparatus claim that has substantially all the limitation of the respective method claims 23-24. Therefore, it is subject to the same rejection.

Regarding claims 58-59, claims 58-59 are apparatus claims that have substantially all the limitations of the respective apparatus claims 26-27. Therefore, they are subject to the same rejection.

3.   Claims 3-6 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caves (6,266,343) in view of Turner et al (6,438,137) as applied to claims 1 and 34 above, and further in view of Robinett et al (6,351,471).

Regarding claims 3-6, Caves in view of Turner disclose all the claimed subject matter as described in previous paragraph except for inserting silence placeholders to fill a time interval during which no incoming media packets are received from a particular telephone device. However, Robinett discloses filling a time interval during which no incoming media packets are received from a particular telephone device with silence placeholders (see col. 5, lines 48-50 and col. 10, lines 27-44). Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to fill the time interval with placeholders as taught by

Robinett in the system of Caves in view of Turner in order to maintain the bit rate and prevent

buffer underflow.

Regarding claims 36-39, claims 36-39 are computer claims that have substantially all the

limitation of the respective method claims 3-6. Therefore, they are subject to the same rejection.

Allowable Subject Matter

4.   Claims 7-9, 25, 31, and 40-42 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the limitations of

the base claim and any intervening claims.

Response to Arguments

5.   Applicant's arguments filed 3/16/04 have been fully considered but they are not

persuasive.

The applicant argued on page 19 that Caves fails to disclose *mixing data segments, let*

alone mixing the data segments from two or more of the telephone devices to create an

aggregate data segment having a length equal to a length of each of the data segments mixed to

create the aggregate data segment. The examiner disagrees because Caves clearly disclose this

limitation as shown in figure 2 where CPS packets from user-1 and user-2 are mixed to form a

CPS packet and the length of CPS packet equal to a length of each of the data segments mixed

(see figure 2). On the same page, the applicant also argues that Caves fails to disclose that the

outgoing payload section is constructed by linking *successively generated data segments.* The

examiner disagrees because Caves does disclose this limitation. For example, in col. 2, lines 1-
10, Caves discloses reconverting the adapted data from the second format to the first format. In
other words, the data is reconstruct to it original form by linking successively generated data
segments. Regarding claim 15, on page 20, the applicant argues that dividing a first payload
section of a first incoming packet into one or more full segments of equal size and *a remainder
segment containing the remainder of the first payload section*. The examiner disagrees because
Caves does disclose this limitation. See figure 2 where user packet is of variable length while the
CPS packet is of fixed length of 48 octets. Because variable length packets, from different users,
are segmented to fit into a fixed length packet, some packets from the user must have a
remainder and the remainder will be mixed with full segments to form an aggregate packet. See
also figure 1 where a packet of less than 47 octets is inserted into packet of 47 octets. Regarding
claim 3, on page 21, the applicant argues that Caves merely discloses that the payload of a
second format only carries segments of the first format from the same source. The examiner
disagrees because figure 2 show from different sources (user-1 and user-2). The applicant also
argues that Caves fails to disclose that outgoing payload sections are constructed for a telephone
device from which incoming media packets were *not received*. It is unclear what the applicant
means by "outgoing payload sections are constructed for a telephone device from which
incoming media packets were *not received*". However, if the applicant means inserting some
packet/segment such as null packet into empty slots then Robinett discloses this limitation as
described in paragraph 3. Regarding claims 10 and 13, the applicant argues the claim recites
"dividing a first payload section of a first incoming packet into one or more full segments of
equal size and a remainder segment containing the remainder of the first payload section. The

response to the segmenting and the remainder arguments are discussed above. Regarding claim

23, the applicant argues that Caves is silent as to whether or not the voice data information is in a

dissimilar format such that there is a need to convert data in the incoming payload sections to a

common media format. The examiner disagrees because Caves does disclose this limitation. See

figure 2 where type 1 packet belongs to user-1 and non-type 1 packet belongs to user-2. In

addition, both type 1 and non-type 1 packets are different from CPS-PDU packet.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Nguyen
4/30/04